

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff Investment  
Securities, LLC

Plaintiff,

v.

EDWARD L. SLEEPER,

Defendant.

Adv. Pro. No. 10-04497 (SMB)

**STIPULATION AND ORDER WITHDRAWING JUDGMENT BY DEFAULT AGAINST  
DEFENDANT EDWARD SLEEPER AND  
DISMISSING ADVERSARY PROCEEDING WITHOUT PREJUDICE**

WHEREAS, on December 2, 2010, Irving H. Picard, as trustee (“Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* and the substantively consolidated estate of Bernard L. Madoff, commenced the above-captioned adversary proceeding (the “Adversary Proceeding”) against NTC & Co. LLP, as former custodian of an Individual Retirement Account for the benefit of Edward L. Sleeper, and Edward L. Sleeper in the United States Bankruptcy Court for the Southern District of New York; and

WHEREAS, Defendant NTC & Co. LLP was dismissed without prejudice by Stipulation

on May 11, 2011; and

WHEREAS, the Trustee requested that the Clerk enter Judgment by Default against Defendant Edward L. Sleeper on November 15, 2016; and

WHEREAS, Judgment by Default was entered against Defendant Edward L. Sleeper on November 29, 2016; and

WHEREAS, after Judgment by Default was entered, Edward L. Sleeper submitted to the Trustee a hardship application on February 7, 2017 (the "Hardship Application") and requested that the Trustee withdraw the Judgment by Default and agree to dismiss him from the Adversary Proceeding. In support of the Hardship Application, Defendant Edward L. Sleeper submitted to the Trustee financial statements, supporting documentation and other information, all under penalty of perjury;

WHEREAS, in reliance on the representations made by Defendant Edward L. Sleeper in the Hardship Application and other representations and/or materials submitted by Defendant Edward L. Sleeper in support of the Hardship Application, the Trustee in the exercise of his due and deliberate discretion determined to withdraw the Judgment by Default entered against Defendant Edward L. Sleeper on November 29, 2016 and dismiss Defendant Edward L. Sleeper from the Adversary Proceeding without prejudice under certain terms as set forth in this Stipulation;

IT IS HEREBY agreed and stipulated between the Trustee and Defendant Edward L. Sleeper as follows:

1. Defendant Edward L. Sleeper hereby affirms (i) that all representations made by him and all materials provided by him have been submitted as true and correct under penalty of perjury and (ii) that the Trustee has relied upon these materials in exercising his discretion to

withdraw Judgment by Default and dismiss Defendant Edward L. Sleeper from the Adversary Proceeding.

2. Defendant Edward L. Sleeper hereby agrees that to the extent it is subsequently determined that he deliberately or intentionally submitted materially false and/or misleading representations, statements and/or materials in connection with the Hardship Application or his dismissal from the Adversary Proceeding, that the Trustee shall have the right to reinstitute the Adversary Proceeding against him and/or pursue other remedies available to him and that Defendant Edward L. Sleeper agrees that this Stipulation and Order shall act to toll any applicable statutes of limitation with respect to the Trustee's commencement of any such claims and notwithstanding section 546(a) of the Bankruptcy Code, Defendant Edward L. Sleeper hereby agrees to waive any statute of limitations defense in any such actions or claims commenced by Trustee.

3. Pursuant to Fed. R. Civ. P. 41(a), made applicable by Fed. R. Bankr. P. 7041(a), the Trustee and Defendant Edward L. Sleeper hereby agree that upon approval of this Stipulation and Order by the Bankruptcy Court, except as set forth in paragraph 2 hereof, the Judgment by Default entered on November 29, 2016 is withdrawn and the Trustee's claims against Defendant Edward L. Sleeper are dismissed without prejudice.

4. This Agreement may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

5. This Stipulation and Order is subject to the approval of the Bankruptcy Court, failing which the provisions of the Stipulation and Order shall be void and of no effect.

Date: May 11, 2017

<p>By: <u>/s/ Nicholas J. Cremona</u> David J. Sheehan Nicholas J. Cremona BAKER &amp; HOSTETLER LLP 45 Rockefeller Plaza New York, New York Telephone: (212) 589-4200 Fax: (212) 589-4201</p> <p><i>Attorneys for Irving H. Picard, Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff</i></p>	<p><u>/s/ Dr. Edward Sleeper</u> Dr. Edward Sleeper</p> <p>By: <u>/s/ Michael F. Connolly</u> Michael F. Connolly RUBIN AND RUDMAN LLP 50 Rows Wharf Boston, MA 02110 Telephone: (617) 330-7000 Email: mconnolly@rubinrudman.com</p> <p><i>Attorneys for Defendant Edward L. Sleeper</i></p>
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SO ORDERED:

By: /s/ STUART M. BERNSTEIN Date: May 12, 2017  
HON. STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE